



November 22, 2022

Via PACER

Hon. Glenn T. Suddaby
US District Court
Northern District of New York
James M. Hanley Federal Building & U.S. Courthouse
100 S. Clinton St.
Syracuse, NY 13261

SYRACUSE
4615 North Street
Jamesville, NY 13078
p 315.492.3000
f 716.853.0265
kslnlaw.com

**Re: Devins v. Oneida County, et al.
Civil Case No.: 6:21-CV-0802 (GTS/ATB)
KSLN File No.: COO 31371**

Your Honor:

I represent the defendants in the above matter. I submit this letter in response to your November 16, 2022, text order directing defense counsel to file a letter with the court confirming that the hard drive in the court's possession is the only copy of the hard drive in the County's possession or if it is not, who has any other copies.

The purpose of Your Honor's prior order of September 29, 2022, where Your Honor directed the parties to submit a letter brief advising you how the clerk of the court, who has been serving as the custodian of the external hard drive, shall properly dispose of it.¹

The Court's involvement at this stage of the proceeding is limited to how it should dispose of the external hard drive in its possession. In response to Your Honor's directive as set forth in its text order of November 16, 2022, and as a supplement to the defendants' previously filed letter with the court dated November 16, 2022, the defendants respond as follows:

- The Oneida County District Attorney's Office is in possession of one (1) copy of the hard drive. The hard drive is being held by the District Attorney as evidence of a murder in the event that the criminal defendant, Brandon Clark, is ever granted a new trial of the previously convicted crimes.
- The Oneida County District Attorney provided the Oneida County Public Defender's Office a copy of the hard drive pursuant to the discovery provisions of the Criminal Procedure Law of the State of New York.
- The District Attorneys Office of Oneida County received their copy of the hard drive from the City of Utica Police Department which, upon information and belief, is in possession of Brandon Clark's cell phone video. The video was downloaded, and a copy was given to the District Attorney, as evidence in Brandon Clark's criminal prosecution.

¹ Dkt. #44.

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Plaintiff's attorney, in his letter filed with the court dated November 17, 2022, proposes that the court require Oneida County to disclose all persons and entities to whom it released CSAM (hard drive depicting Bianca Devins). However, the defendants object to that proposal as it could potentially implicate 5th Amendment protections given that Plaintiff has alleged criminal violations. Therefore, the defendants request that Your Honor deny that request.

Respectfully,

KENNEY SHELTON LIPTAK NOWAK LLP

A handwritten signature in black ink, appearing to read 'D. Walsh', is positioned above the typed name.

David H. Walsh, Partner
DHWalsh@kslnlaw.com

DHW/kmd